

**Town Council Minutes
Morehead City, North Carolina**

Tuesday, January 14, 2014

The Honorable Council of the Town of Morehead City met in Regular Session on Tuesday, January 14, 2014, at 5:30 p.m., in the Municipal Chambers located at 202 South 8th Street, Morehead City, North Carolina. Those in attendance were:

MAYOR:	Gerald A. Jones, Jr.
MAYOR PRO-TEM:	George W. Ballou
COUNCIL:	William F. Taylor
	Demus L. Thompson [Absent]
	Harvey N. Walker, Jr.
	Diane C. Warrender
CITY MANAGER:	David S. Whitlow
CITY CLERK:	Jeanne M. Giblin
CITY ATTORNEY'S OFFICE:	Nelson W. Taylor, III; Derek Taylor; Mike Thomas
OTHERS:	Susan Nixon; Holly Fletcher; Ray Hopper; Tom Kies;

Roger Mays; Gerry M. Garner; Ann L. Garner; Brad Teer; Adrew Kiluk; Police Major Bernette Morris; Tom Wadsworth; Lou Teer; Ken Wood; Joe Stroud; Kathryn Gillikin; Russell Lewis; Ronetta Gaskill; Christopher Mashburn; Porter Wilson; Ricardo Gomez; Chuck Cooper; Planning Director Linda Staab; Public Works Director David McCabe; Mark Hibbs, Reporter, THE CARTERET COUNTY NEWS TIMES; and several others

I. Regular Meeting Call to Order, Invocation and Pledge of Allegiance

Mayor Jones opened the meeting at 5:30 p.m. Councilman Ballou gave the invocation and all joined in The Pledge of Allegiance.

Mayor Jones stated that Councilman Thompson will not be present this evening.

II. Adoption of the CONSENT AGENDA

II.A. Approval of Minutes: Tuesday, December 14, 2013

Approved the minutes of Tuesday, December 14, 2013, and dispensed with the reading.

II.B. Approve the Requests for Release of Overpayment of Ad Valorem Taxes for December 2013, in the amount of \$9,501.60; and Accept the Tax Collector and Finance Director Reports for December 2013

Approved the requests for the release of overpayment of ad valorem taxes for December 2013, in the amount of \$9,501.60; and accepted the Tax Collector and Finance Director Reports for December 2013. [The financial reports are attached to and made a part of these minutes herein by reference.]

II.C. Adopt Resolution 2014-01 Requesting the North Carolina Department of Transportation [NCDOT] to Design and Install an Emergency Signal for Morehead City Fire/EMS Station II

For safety reasons the recently completed Fire/EMS Station II located at 4032 Arendell Street [US #70] needed the installation of an emergency signal in order to promptly and safely respond to emergency calls for service. The Station has a single route of ingress and egress on the heavily traveled Arendell Street/Highway #70. The North Carolina Department of Transportation [NCDOT] requested the adoption of Resolution 2014-01 prior to developing contracts for the design and installation of the traffic signal. At the December 10, 2013, Council Meeting a Budget Ordinance Amendment to fund the traffic signal was adopted by the Council. Morehead City will be fully funding the design, installation and maintenance of the signal.

Adopted Resolution 2014-01 Requesting the North Carolina Department of Transportation [NCDOT] to Design and Install an Emergency Signal for Morehead City Fire/EMS Station II. [Resolution 2014-01 is attached to and made a part of these minutes herein by reference.]

II.D. Adopt Ordinance 2014-04 Amending the Morehead City Code of Ordinances, Chapter 13, Police, by Adding Section 13-9 Granting Police Department Authority to Access Criminal History Information for ABC [Alcohol Beverage Control] Permits

The Morehead City Police Department sought authorization to conduct criminal background checks for applicants applying for ABC [Alcohol Beverage Control] permits. The adoption of Ordinance 2014-04 gives authorization to the Police Department for state access to SBI/DCI Criminal History Record information on all individuals applying for ABC permits for the area under the Police Department's jurisdiction. The Public Safety Committee of the Council reviewed this request at their last meeting and recommended approval.

Adopted Ordinance 2014-04 Amending the Morehead City Code of Ordinances, Chapter 13, Police, by adding Section 13-9 Granting Police Department authority to access criminal history information for ABC [Alcohol Beverage Control] permits. [Ordinance 2014-04 is attached to Ordinance Book #7 in the vault.]

Councilman Taylor MOVED, seconded by Councilman Walker and carried unanimously [Councilman Thompson absent], to Adopt the CONSENT AGENDA in one [1] motion.

III.A. Public Hearing: Voluntary Contiguous Annexation Request for Raymond and Kristi Mroch for property located at 403 Friendly Road, PIN #6376-1314-0665-000, 0.74 acre, Zoned R-20 [Single Family Residential] District – Adopt Ordinance 2014-01

Planning Director Linda Staab reported that the property under consideration for annexation (6376-1314-0665-000) is contiguous to the present City limits. The parcel contains approximately 0.74 acre and is zoned R20 (Single-Family Residential District). The site is part of the Friendly Subdivision, the remainder of which is located within Morehead City's extraterritorial jurisdiction (ETJ). The current tax value of the property is estimated to be \$250,788. Based on a 28.5-cent tax rate, \$714.75 in tax revenues would be generated. Water and sewer will be accessed from Friendly Road. All costs associated with extending the water/sewer service to the newly annexed property will be the responsibility of the owner. The Planning Committee of the Council reviewed the proposed annexation and recommended approval.

Mayor Jones opened the public hearing.

No one spoke for or against the annexation request.

Mayor Jones closed the public hearing.

Councilwoman Warrender MOVED, seconded by Councilman Ballou, and carried unanimously [Councilman Thompson absent], to adopt Ordinance 2014-01 granting the request for voluntary contiguous annexation for Raymond and Kristi Mroch for property located at 403 Friendly Road, Morehead City, PIN #6376-1314-0665-000, 0.74 acre, zoned R-20 [Single Family Residential] District. [Ordinance 2014-01 is attached to Ordinance Book #7 in the vault.]

III.B. Public Hearing: Request submitted by the Cooper Law Firm on behalf of Klew, LLC to Amend Articles 2-2 and 11-1 of the Unified Development Ordinance to Add "Microbrewery" as a Special Use in the Downtown Business (DB) District and to add a definition for "Microbrewery" – Adopt Ordinance 2014-02

Planning Director Linda Staab reported that a request was submitted by Mr. Cooper, on behalf of Klew, LLC, to amend Article 11 to allow microbreweries as a special use in the Downtown Business District.

Article 2-2 Definitions of Basic Terms:

Microbrewery. A small facility for the brewing of beer that produces less than 15,000 barrels per year. It may often include a tasting room and retail space to sell the beer to patrons on the site and may be affiliated with an attached restaurant.

Article 11-1 Table of Permissible Uses:

Use/District	De- finition	R5	R5S	R7	R10	R15	R15M	R15S	R20	RMF	O&P	PD	MA	CD	CM	DB	CN	CH	CS	IU	IP	LD	IC
Microbrewery	Yes															Is							

At the Planning Board Meeting on November 19, 2013, Tom Saunders made the MOTION, seconded by Gordon Thayer, and carried unanimously, to recommend approval of the proposed amendment. The Planning Committee of the Council reviewed the request and recommended approval.

Mayor Jones opened the public hearing.

Russell Lewis, of 103 Gordon Street, Beaufort, one of the partners who submitted the request, detailed the proposed operation. The microbrewery will be in addition to a restaurant. He hoped that the establishment will provide a unique cultural experience to both residents and visitors. He stated that North Carolina is the fifth largest state in the country in terms of microbreweries. The product is a craft artisan beer. He hoped that the establishment would be another reason to come to visit downtown Morehead City.

Councilman Walker questioned if a Morehead City brew was to be served?

Mr. Russell answered affirmatively. The brew will be called “Tight Lines” which he hoped would create brand recognition.

Councilman Ballou questioned if there will be a tasting area?

Mr. Lewis stated the plans call for siting the brewery on the soon to be demolished porch on the east side of the property. A small area could be set aside for tasting. The beer produced would be served at the sited restaurant and also at their sister restaurant in Beaufort.

Tom Kies, Executive Director of the Downtown Morehead City Revitalization Association [DMCRA] stated that the DMCRA is very excited about having this business in the downtown area and lends its support.

Mayor Jones closed the public hearing.

Councilman Ballou questioned the close proximity of this proposed establishment to a church.

Planning Director Staab reported that the proposed establishment does not fall under the definition of a bar or cocktail lounge.

Mayor Jones reminded the Council that there is a cocktail lounge within 50 feet of the proposed microbrewery, however, the cocktail lounge preceded the church.

City Manager Whitlow commented that a tasting room under state law is very limited as to how much it could serve, e.g. two ounces sample each, less than 12 ounces total.

Councilman Taylor MOVED, seconded by Councilwoman Warrender and carried unanimously [Councilman Thompson absent], to adopt Ordinance 2014-02 granting the request submitted by the Cooper Law Firm on behalf of Klew, LLC to Amend Articles 2-2 and 11-1 of the Unified Development Ordinance to Add “Microbrewery” as a Special Use in the Downtown Business (DB) District and to add a definition for “Microbrewery”. [Ordinance 2014-02 is attached to Ordinance Book #7 in the vault.]

III.C. Public Hearing: City-initiated request to amend Articles 2-2, 2-3, 3-5, 3-6, 3-7, 4-8, 4-17, 5-2, 5-3, 5-4, 5-5, 6-1, and 6-2 of the Unified Development

Ordinance as a Result of New State Legislation related to Quasi-Judicial Decision-Making and Boards of Adjustment – Adopt Ordinance 2014-03

Planning Director Linda Staab reported that effective October 1, 2013, the NC General Assembly simplified and modernized the board of adjustment statute to ensure that uniform procedures are applied across the state. In order to provide consistency, it was necessary to revise Morehead City's Unified Development Ordinance in accordance with the legislative amendments. Some of the changes associated with the new legislation include:

- *Clarification through stylistic and organizational changes of the text.*
- *Standardized notice of hearings:* Notice must be mailed to the applicant, the owner of the affected property, adjacent owners, and anyone else entitled to notice under the ordinance. In addition, zoning hearing signs must now also be posted on the subject property.
- *Standardized timing for appeals:* All appeals must be made within 30 days of notice of a final, binding administrative decision. Landowners have the option of giving formal constructive notice by posting a sign for at least ten days.
- *Standardized method for property owners to provide constructive notice of a zoning decision.*
- *Requires zoning officials whose determinations are appealed to appear as witnesses at the appeal hearing.*
- *Boards of adjustment may no longer make decisions regarding disputed property lines.*
- *Requires a simple majority vote, rather than 4/5 vote, for decisions on appeals and special use permits heard by boards of adjustment.* The four-fifths majority is still required for variances.

At the Planning Board Meeting on November 19, 2013, Gordon Thayer made MOTION, seconded by Jackie Maucher, to recommend approval of the proposed amendment. The motion carried unanimously. The Planning Committee of the Council reviewed the amendments and recommended approval.

Mayor Jones opened the public hearing.

No one spoke for or against the proposed ordinance.

Councilwoman Warrender MOVED, seconded by Councilman Taylor, and carried unanimously [Councilman Thompson absent], to adopt Ordinance 2014-03 granting City-initiated request to amend Articles 2-2, 2-3, 3-5, 3-6, 3-7, 4-8, 4-17, 5-2, 5-3, 5-4, 5-5, 6-1, and 6-2 of the Unified Development Ordinance as a Result of New State Legislation related to Quasi-Judicial Decision-Making and Boards of Adjustment. [Ordinance 2014-03 is attached to Ordinance Book #7 in the vault.]

IV.A. Unfinished Business: Adoption of Proposed Regulations for the South 11th Street Beach/Boat Access or Ordinance 2014-05 Amending the Town of Morehead City Code of Ordinances, Chapter 10, Offenses, Miscellaneous, Article 1, *In General*, Section 10-25 Launching Boats from Street, Moorings.

Mayor Jones reported that in June 2013, the Public Works Committee of the Council received concerns from neighboring property owners adjacent to the South 11th Street public beach access regarding the use of the property by sailboat owners and the encroachment on the private owners' properties. The Committee requested that City staff review the issue and develop proposals. These proposals were presented to the Public Works Committee at its August 2013 meeting at which time the Committee recommended that overnight storage of all vessels be terminated. An ordinance was drafted to that effect and presented to the full Council for consideration.

During the following months, this issue has been discussed by the Council several times at Council Meetings. The consensus of the Council was that a regulated approach to vessel storage was desired rather than to prohibit all vessel storage. Based upon both the public comments and those of Council, City staff prepared proposed rules and regulations for Council review and consideration.

Mayor Jones commented that this matter needs to come to a conclusion and he asked for a MOTION in order to open discussion.

Councilman Walker stated that he preferred not allowing any private storage on City property as he felt that the matter was a storage issue rather than a launching and use of the site issue. He would prefer that the Ordinance initially presented on October 8, 2013, be adopted.

Councilman Walker MOVED to adopt Ordinance 2014-05 Amending the Town of Morehead City Code of Ordinances, Chapter 10, Offenses, Miscellaneous, Article 1, In General, Section 10-25 Launching Boats from Street, Moorings. Councilman Ballou seconded the motion and opened the matter for discussion.

Councilman Ballou commented that he is looking for closure on this matter. It was never the intention of the Council to deny public access to South 11th street. The issue was vessels being left and stored on the property. He has researched the issue and stated that the minutes of the January 2006 Council Meeting reflected that the City applied for CAMA funding for the installation of racks and the parking area. There was never any intention for the racks to be used for long term storage. The Waterfront Access Plan adopted in 1998, did not mention long term storage on street ends or public property.

Councilwoman Warrender commented that she came from a sailing background and that she currently lives very close to the South 11th Street public access site. She was of the opinion that because of the City placing infrastructure on the property the City was treating this launch area differently than any other street end. It was an exception rather than the norm. The intent of the City was to allow this type of hand launch. She stated that she has owned her property since 2006, and there were always boats at South 11th Street. She continued that the issue was never the storage of boats, it was the infringement of the boats on the adjacent private property. To eliminate that problem the property lines should be delineated.

Councilman Taylor was in concurrence with the comments of Councilwoman Warrender. He felt that the City created conditions that were conducive to storage, and that parking spaces and storage racks were not found in the other water access sites. The area was known for sailing and a sailing group utilized the access. He felt that South 11th Street was a special situation which provided a useful purpose for a group of citizens.

Upon a question, City Attorney Nelson Taylor advised that street ends are subject to regulations. In the case of South 11th Street, the City was treating that area differently.

Councilwoman Warrender commented that the City has allowed boat storage for many years in that area and that a precedent has been set.

City Attorney Nelson Taylor replied that the fact that the City has allowed the site conditions, does not mean that the situation cannot be changed.

Councilman Walker commented that he didn't think the City allowed the situation, the matter was just overlooked.

Councilwoman Warrender stated that there is a large contingent of people who want to continue to use the site as was used in the past.

Mayor Jones stated that this issue has been continuing for nine [9] months. There were public apologies, offers for community policing of the property, etc. He visited the site recently and discovered that nothing has changed as boats are still where they have been set all along.

Councilman Taylor called for the question.

Councilman Walker MOVED, seconded by Councilman Ballou, to adopt Ordinance 2014-05 Amending the Town of Morehead City Code of Ordinances, Chapter 10, Offenses, Miscellaneous, Article 1, In General, Section 10-25 Launching Boats from Street, Moorings. Councilmen Ballou and Walker voted for the amendment, Councilwoman Warrender and Councilman Taylor voted against.

Mayor Jones commented that closure was needed for this issue and that the duty of Morehead City was to protect the rights of all. ***Mayor Jones voted in favor of the MOTION to not allow any storage at street ends. The MOTION carried with a vote of three [3] (Mayor Jones, Councilmen Ballou and Walker) voting for; two [2] against (Councilman Taylor and Councilwoman Warrender) and Councilman Thompson absent.*** [Ordinance 2014-05 is attached to Ordinance Book #7 in the vault.]

IV.B. Unfinished Business: Approve an Agreement with the Crystal Coast Tournament, Inc., [formerly Big Rock/Blue Marlin Tournament] for the Acceptance of the Gift of the Bronze Marlin Sculpture and Other Terms for the Jib Fountain Project on the Morehead City Waterfront

City Manager David Whitlow reported that at the October 8, 2013, Council Meeting, City Manager Dave Whitlow announced that the Big Rock/Blue Marlin Fishing Tournament provided and Morehead City accepted a bronze marlin sculpture and \$50,000 as a gift to the citizens of Morehead City to be used as part of the Jib Waterfront project. The initial acceptance and agreement was approved by the Council on May 14, 2013, but never executed by the Big Rock. The agreement provided at the October 8th meeting was the same as was approved in May, however, with the exceptions of the addition of Item #8 whereby it was agreed that the copyright of the sculpture was the property of the artist, Kent Ullberg and the agreeing party was now Crystal Coast Tournament, Inc., not the Big Rock/Blue Marlin Fishing Tournament.

At that time, discussion arose among the Council Members regarding the copyright of the sculpture and the agreement for that right between the sculptor and the Crystal Coast Tournament. The City Attorney advised for the Council to delay adopting the proposal until clarification from the Tournament regarding copyright status could be reviewed. Subsequently, in a letter dated December 19, 2013, to the City, the sculptor, Ken Ullberg, has agreed that Morehead City can make use of two-dimensional reproductions of the sculpture for non-commercial uses.

Upon a question for Councilman Ballou it was ascertained that if something were to happen to the sculptor, the rights and privilege would transfer to his heirs as the artist was listed as a corporation which could withdraw the license and transfer it to anyone.

Councilman Taylor MOVED, seconded by Councilman Ballou, and carried unanimously [Councilman Thompson absent], to approve an Agreement with the Crystal Coast Tournament, Inc., [formerly Big Rock/Blue Marlin Tournament] for the acceptance of the gift of the Bronze Marlin Sculpture and other terms for the Jib Fountain Project on the Morehead City Waterfront. [The agreement is attached to and made a part of these minutes herein by reference.]

V. Citizen Requests/Comments: [2 minute time limit]

Ken Wood of 910 Harrell Drive, Morehead City stated he wanted to set the record straight. Former Councilman Nelson led the fight to shut down the South 11th Street site. The purpose of the racks was for overnight storage. The kayak or canoe had to be locked in place and he continued that Public Works Director McCabe could verify that that was the exact intent of the racks. He stated that there was a lot of fabrication about the intent of the site, but it was specifically for the overnight storage of kayak, canoes and small sailboats. He continued that he was very upset by the action of the Council.

Andrew Kiluk of 1700 Ivory Gull Drive, Morehead City stated that the parking lot was not trailer friendly and where were they supposed to park their trailers? This action effectively prevents his access to the area. He requested that the parking lot be retooled for trailers.

Gerry Garner of 1412 Shackleford Street, Morehead City thanked the Council for their action. This issue was not about access but about overnight storage.

Brad Teer of 200 Bogue Drive, Morehead City stated he was disappointed. He had sailed there for a long time and that it was a rich heritage. He commented that the sailors will be leaving Morehead City. Long term storage was what kept the boats there and it was too difficult to bring a trailer and unload for weekly access.

Michael Garner of 304 North 24th Street, Morehead City commented that his parents own the adjacent property to the site. He thanked the Council for hearing their concerns. It was never about access. The boaters have turned the site into a dumping ground. He further commented that nobody is beyond the set-up of what you have to do to get a boat on the water. That is part of boating.

Luke Teer, of 200 Bogue Drive, Morehead City stated he was shocked at the outcome. He moved to this area due to the ability to access the water and that it was nice to leave a small sailboat at South 11th Street. He was sorry that he will not be able to do that anymore. The problem was lack of boundary and people not realizing where they were leaving their boats. He asked that the Council reconsider their action.

VI.A. City Manager’s Report: Approve an Agreement with CGI Communications, Inc. for a Community Video Tour to be placed on the Morehead City Website

City Manager David Whitlow reported that Morehead City had the opportunity to work with CGI Communications, Inc. to provide a series of brief community videos linked to the Morehead City website. The videos act as an economic development tool as well as providing new residents and visitors the opportunity to view Morehead City on-line. There would be no costs to Morehead City. The compensation for the program was provided by the advertising that CGI Communications, Inc. sells to local businesses that would have links to the community videos. The Morehead City website would not be directly involved in any advertising activities and the ads are not hosted on our website.

Morehead City staff would be involved in the development of the videos, scripting and editing in order to ascertain that it is a quality product. A copy of the proposed contract was presented for consideration.

Councilman Ballou MOVED, seconded by Councilman Taylor, and carried unanimously [Councilman Thompson absent], to approve an agreement with CGI Communications, Inc., for a Community Video Tour to be placed on the Morehead City website.

VI.B. City Manager’s Report: Selection of an Employee Benefits Consultant

City Manager David Whitlow reported that City staff undertook a search process in October 2013, to select an employee benefits consultant. Up to this time the City had been using an insurance broker. With the Affordable Care Act and increasing fees, the City felt that better services, better product and control of costs could be attained with a benefit consultant. Five [5] firms submitted proposals with three [3] of them meeting the evaluation criteria based on a weighted scoring scale. These three [3] firms were interviewed by City Manager David Whitlow and Human Resources Officer Susan Nixon. Listed below are the names of the firms interviewed with their cost proposals:

Company	Description	Annual Cost
Pierce Group Benefits	\$13.00 per employee per month	\$28,080 [based on 180 employees]
Benefit Controls	Pricing Alternative #1	\$34,500
	Pricing Alternative #2	\$25,000 +
		Incentive
	Health Improvement Incentive	\$ 7,500
	Claims Contingency Incentive	\$ 7,500
	Zero Trend Incentive	\$10,000
Group Benefits Consultants	3% of Medical Premiums	Varies

Based on the feedback from the interviews, the presenters, cost proposals, scope of services, etc., the City staff recommended the Pierce Group Benefits based in Holly Springs, N.C. There were funds placed in the budget for this service.

Councilwoman Warrender MOVED, seconded by Councilman Walker, and carried unanimously [Councilman Thompson absent], to appoint Pierce Group Benefits of Holly Springs, North Carolina to act as the employee benefits consultant

for the Town of Morehead City at an annual rate of \$28,080 based upon employee numbers.

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City Manager Whitlow advised that he was working on a calendar regarding meeting for a discussion on capital needs and improvements as per Councilman Taylor's suggestion.

VII. Council Requests/Comments

Councilwoman Warrender commented that she was disappointed in the outcome of South 11th Street Beach Access, but she was part of the Council and respected the decision.

Councilman Taylor commented that he was glad the South 11th Street Beach Access issue was resolved and hopefully people will make adjustments for the betterment of the community.

Councilman Walker commented that he was thankful the South 11th Street Beach Access issue was resolved and offered to work together for the New Year.

Councilman Ballou commented that being a Council Member was a tough job and that he had certainly made some decisions that were not popular with everyone, but he tried to be fair. He stated that his vote on the South 11th Street Access issue reflected that and it is an honor to serve the people of Morehead City.

The Council held a five [5] minute recess.

VIII. CLOSED SESSION as per G.S. 143.318.11[a][3] to Approve the CLOSED SESSION MINUTES of Tuesday, November 12, 2013, and to Receive an Update on the Martin vs. Town of Morehead City Litigation and other Potential Litigation with the City Attorney

Councilman Walker MOVED, seconded by Councilman Taylor, and carried unanimously [Councilman Thompson absent] to enter into CLOSED SESSION.

Councilman Taylor MOVED, seconded by Councilman Ballou, and carried unanimously [Councilman Thompson absent], to return to OPEN SESSION.

Councilman Warrender MOVED, seconded by Councilman Taylor, and carried unanimously [Councilman Thompson absent], to approve and seal the CLOSED SESSION MINUTES of Tuesday, November 12, 2013.

IX. Adjournment

With no further business, the meeting adjourned at 7:30 p.m.

Gerald A. Jones, Jr., Mayor

Attest:

Jeanne M. Giblin, City Clerk